

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TYRONE LASTER,

Plaintiff,

-against-

ROBERT MANCINI, et al.,

Defendants.

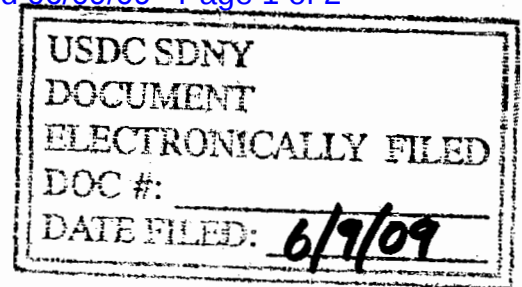
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DEBORAH A. BATTS, United States District Judge.

The Court is in receipt of Defendant's letter dated March 20, 2009, addressing Defendant's proposed motion for summary judgment. Defendant shall file and serve moving papers within 45 days of the date of this Order. Thereafter, Plaintiff shall respond within 45 days of being served with Defendant's moving papers. Defendant may then reply within 10 days of being served with Plaintiff's response. At that time, Defendant's motion will be fully-submitted.

Plaintiff, who proceeds pro se, shall be on notice of Local Civil Rule 56.2,<sup>1</sup> which provides that pro se litigants shall be reminded that a party who moves for summary judgment is asking the court to decide a case without a trial, based on written materials, including affidavits, submitted in support of the motion. THE CLAIMS ASSERTED BY A PLAINTIFF IN HIS COMPLAINT MAY BE DISMISSED WITHOUT A TRIAL IF THE PLAINTIFF DOES NOT RESPOND TO THAT MOTION by filing his own sworn affidavits or other papers as required by Rule 56(e) of the Federal Rules of Civil Procedure. An affidavit is a sworn statement of fact

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<sup>1</sup> This Order does not absolve Defendant of any of its obligations pursuant to Local Civil Rule 56.2.



07 Civ. 8265 (DAB)  
ORDER

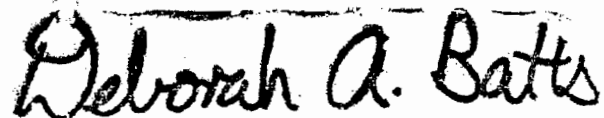
based on personal knowledge that would be admissible in evidence at trial.

In short, Rule 56 of the Federal Rules of Civil Procedure provides that a plaintiff may NOT oppose summary judgment simply by relying upon the allegations in his Complaint. Rather, a plaintiff must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising issues of fact for trial. Any witness statements, which may include a plaintiff's own statements, must be in the form of affidavits. A party may submit affidavits that were prepared specifically in response to the motion for summary judgment.

Any issue of fact that a plaintiff wishes to raise in opposition to the motion for summary judgment must be supported by affidavits or by other documentary evidence contradicting the facts asserted by the defendant. If a plaintiff does not respond to a motion for summary judgment on time with affidavits or documentary evidence contradicting the facts asserted by the defendant, the court may accept the defendant's factual assertions as true. Judgment may then be entered in the defendant's favor without a trial.

SO ORDERED.

Dated: New York, New York  
June 9, 2009

A handwritten signature in black ink, reading "Deborah A. Batts". The signature is written in a cursive, flowing style. The first letter of "Deborah" is capitalized and large. The signature is positioned above a horizontal line.

Deborah A. Batts  
United States District Judge